<u>**REMARKS**</u>

In the Office Action, the Examiner rejects claims 1 and 5-11 under 35 U.S.C. § 102(e) as anticipate by PETROPOULOS (U.S. Patent Application Publication No. 2005/0027670); and rejects claims 2-4 under 35 U.S.C. § 103(a) as unpatentable over PETROPOULOS in view of TAIRA et al. (U.S. Patent Application Publication No. 2005/0050045). Applicants traverse the rejections.[1]

By way of the amendment, Applicants cancel claim 2 without prejudice or disclaimer, amend claims 1, and 3-11, and add new claims 46-51. No new matter has been added by way of the amendment. Claims 1, 3-11 and 46-51 are pending.

To begin, independent claims 1 and 9-11 have been amended to include subject matter similar to the subject matter of claim 2. Claim 2 stands rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over PETROPOULOS in view of TAIRA et al. Therefore, for purposes of this response, claims 1 and 9-11 will be treated as rejected under 35 U.S.C. § 103(a) based on PETROPOULOS and TAIRA et al.

Pending claims 1 and 3-11 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over PETROPOULOS in view of TAIRA et al. Applicants respectfully traverse this rejection.

Amended independent claim 1 recites a computer-implemented method that includes receiving a query that includes one or more terms; determining whether the query is a commercial query by: determining whether the one or more terms of the query,

---

[1] As Applicants' remarks with respect to the Examiner's rejections overcome the rejections, Applicants' silence as to certain assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, reasons for modifying a reference and/or combining references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or that such requirements have been met, and Applicants reserve the right to dispute these assertions/requirements in the future.

in any particular order, matches a commercial query pattern in a list of commercial query patterns, and identifying the query as a commercial query when the one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns; processing the query in a first manner when the query is not determined to be a commercial query, where processing the query in a first manner includes ranking documents in a first manner; and processing the query in a second, different manner in response to determining that the query is a commercial query, where processing the query in a second manner includes ranking documents in a second, different manner. PETROPOULOS and TAIRA et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, PETROPOULOS and TAIRA et al. do not disclose or suggest determining whether a query is a commercial query by determining whether one or more terms of the query, in any particular order, matches a commercial query pattern in a list of commercial query patterns, and identifying the query as a commercial query when the one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns. A similar feature was previously presented in claim 2. The Examiner relies on paragraphs 0071 and 0080 of PETROPOULOS and paragraph 0328 of TAIRA et al. as allegedly disclosing a similar feature (Office Action, pp. 5-6). Applicants respectfully disagree with the Examiner's interpretation of PETROPOULOS and TAIRA et al.

At paragraph 0071, PETROPOULOS discloses:

It should be appreciated that the search results are designed to accomplish the end goal of the search engine. These goals may include, but are not limited to: relevance, revenue, and diversity of results. The process flows (200, 300) may

also be configured to change the outcome based on varying considerations. For
example, if the query is determined to be focused on educational research, the
process may be configured to promote non-commercial material. If the intent of
the query is determined to be the purchase of goods or services, the process may
be reconfigured to emphasize commercial or converting material. This
environment may be accomplished through the use of rules that persist over time
and do not consider variables such as the intent of the query, or they may be
dynamic so that the process flow is modified on a query-by-query basis.

This section of PETROPOULOS discloses that if a query is determined to be focused on

educational research, the process of finding search results may be configured to promote

non-commercial material. If the intent of the query is determined to be the purchase of

goods or services, the process may be reconfigured to emphasize commercial or

converting material. While this section of PETROPOULOS discloses that it may be

determined if a query is a commercial query, this section of PETROPOULOS does not

disclose determining whether one or more terms of the query, in any particular order,

matches a commercial query pattern in a list of commercial query patterns. In fact, this

section of PETROPOULOS does not disclose a list at all. Nowhere in this section, or

elsewhere, does PETROPOULOS disclose or suggest determining whether a query is a

commercial query by determining whether one or more terms of the query, in any

particular order, matches a commercial query pattern in a list of commercial query

patterns, and identifying the query as a commercial query when the one or more terms of

the query, in any particular order, matches the commercial query pattern in the list of

commercial query patterns, as recited in amended claim 1.

At paragraph 0080, PETROPOULOS discloses:

Converting queries (keywords), and the URLs (documents) for which they
converted, may be submitted by various sources, including site owners, service
providers, or other interested parties. The recipient of the data would aggregate
converting Query-URL pairs into a database that would be used to store and
process those records for use in responding to future queries that match historical

queries in the database. The recipient would typically be a search engine that
would have rules for accepting, processing, and using the data. The recipient
could also be a third party that would distribute the data in either its raw form or,
after processing the data, according to the rules of the downstream partner(s) to
whom the data is provided.

This section of PETROPOULOS discloses aggregating converting query – URL pairs
into a database used to store and process those records for use in responding to future
queries that match historical queries in the database. Matching queries to historical
queries in a database is in no way equivalent to <u>determining whether one or more terms</u>
<u>of the query, in any particular order, matches a commercial query pattern in a list of</u>
<u>commercial query patterns</u>. This section of PETROPOULOS does not disclose or
suggest identifying the query as a commercial query when the one or more terms of the
query, in any particular order, matches the commercial query pattern in the list of
commercial query patterns. Nowhere in this section, or elsewhere, does
PETROPOULOS disclose or suggest determining whether a query is a commercial query
by determining whether one or more terms of the query, in any particular order, matches
a commercial query pattern in a list of commercial query patterns, and identifying the
query as a commercial query when the one or more terms of the query, in any particular
order, matches the commercial query pattern in the list of commercial query patterns, as
recited in amended claim 1.

At paragraph 0328, TAIRA et al. discloses:

The keyword extracting unit 14 extracts a retrieval keyword input by the
browsing person in the off-site retrieval system from the reference information
containing the URL pattern, based on a query pattern corresponding to the URL
pattern in the retrieval system.

This section of TAIRA et al. discloses extracting a retrieval key word based on a query
pattern corresponding to a URL pattern in a retrieval system. This section of TAIRA et

al. has nothing to do with identifying a query as a commercial query when one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns. Nowhere in this section, or elsewhere, does TAIRA et al. disclose or suggest determining whether a query is a commercial query by determining whether one or more terms of the query, in any particular order, matches a commercial query pattern in a list of commercial query patterns, and identifying the query as a commercial query when the one or more terms of the query, in any particular order, matches the commercial query pattern in the list of commercial query patterns, as recited in amended claim 1.

For at least the foregoing reasons, Applicants submit that claim 1 is patentable over PETROPOULOS and TAIRA et al., whether taken alone or in any reasonable combination.

Claims 3-8 depend from claim 1. Therefore, these claims are patentable over PETROPOULOS and TAIRA et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1.

Independent claim 9 recites a computer-implemented system that includes means for receiving one or more queries that each include one or more terms: means for identifying whether each query of the one or more queries is a commercial query, where the means for identifying includes: means for determining whether a subset of the one or more terms of each query in the one or more queries is included in a list of commercial query patterns, and means for identifying one of the queries in the one or more queries as a commercial query when a subset of the one or more terms of the one of the queries is included in the list of commercial query patterns; and means for processing each query in

- 14 -

the one or more queries based at least in part on the identifying, where the means for

processing each query in the one or more queries based at least in part on the identifying

includes: means for ranking documents in a first manner when the query is not identified

as commercial; and means for ranking documents in a second, different manner when the

query is identified as commercial. PETROPOULOS and TAIRA et al., whether taken

alone or in any reasonable combination, do not disclose or suggest this combination of

features.

For example, PETROPOULOS and TAIRA et al. do not disclose or suggest

means for identifying whether each query of the one or more queries is a commercial

query, where the means for identifying includes means for determining whether a subset

of the one or more terms of each query in the one or more queries is included in a list of

commercial query patterns, and means for identifying one of the queries in the one or

more queries as a commercial query when a subset of the one or more terms of the one of

the queries is included in the list of commercial query patterns. A similar feature was

previously presented in claim 2. The Examiner relies on paragraphs 0071 and 0080 of

PETROPOULOS and paragraph 0328 of TAIRA et al. as allegedly disclosing a similar

feature (Office Action, pp. 5-6). Applicants respectfully disagree with the Examiner's

interpretation of PETROPOULOS and TAIRA et al.

At paragraph 0071, PETROPOULOS discloses:

> It should be appreciated that the search results are designed to accomplish the
> end goal of the search engine. These goals may include, but are not limited to:
> relevance, revenue, and diversity of results. The process flows (200, 300) may
> also be configured to change the outcome based on varying considerations. For
> example, if the query is determined to be focused on educational research, the
> process may be configured to promote non-commercial material. If the intent of
> the query is determined to be the purchase of goods or services, the process may
> be reconfigured to emphasize commercial or converting material. This

environment may be accomplished through the use of rules that persist over time
and do not consider variables such as the intent of the query, or they may be
dynamic so that the process flow is modified on a query-by-query basis.

This section of PETROPOULOS discloses that if a query is determined to be focused on
educational research, the process of finding search results may be configured to promote
non-commercial material. If the intent of the query is determined to be the purchase of
goods or services, the process may be reconfigured to emphasize commercial or
converting material. While this section of PETROPOULOS discloses that it may be
determined if a query is a commercial query, this section of PETROPOULOS does not
disclose means for determining whether a subset of the one or more terms of each query
in the one or more queries is included in a list of commercial query patterns. In fact, this
section of PETROPOULOS does not disclose a list at all. Nowhere in this section, or
elsewhere, does PETROPOULOS disclose or suggest means for identifying whether each
query of the one or more queries is a commercial query, where the means for identifying
includes means for determining whether a subset of the one or more terms of each query
in the one or more queries is included in a list of commercial query patterns, and means
for identifying one of the queries in the one or more queries as a commercial query when
a subset of the one or more terms of the one of the queries is included in the list of
commercial query patterns, as recited in amended claim 9.

> At paragraph 0080, PETROPOULOS discloses:
>
> Converting queries (keywords), and the URLs (documents) for which they
> converted, may be submitted by various sources, including site owners, service
> providers, or other interested parties. The recipient of the data would aggregate
> converting Query-URL pairs into a database that would be used to store and
> process those records for use in responding to future queries that match historical
> queries in the database. The recipient would typically be a search engine that
> would have rules for accepting, processing, and using the data. The recipient
> could also be a third party that would distribute the data in either its raw form or,

after processing the data, according to the rules of the downstream partner(s) to whom the data is provided.

This section of PETROPOULOS discloses aggregating converting query – URL pairs into a database used to store and process those records for use in responding to future queries that match historical queries in the database. Matching queries to historical queries in a database is in no way equivalent to _determining whether a subset of one or more terms of each query in the one or more queries is included in a list of commercial query patterns_. This section of PETROPOULOS further does not disclose or suggest means for identifying one of the queries in the one or more queries as a commercial query when a subset of the one or more terms of the one of the queries is included in the list of commercial query patterns. Nowhere in this section, or elsewhere, does PETROPOULOS disclose or suggest means for identifying whether each query of the one or more queries is a commercial query, where the means for identifying includes means for determining whether a subset of the one or more terms of each query in the one or more queries is included in a list of commercial query patterns, and means for identifying one of the queries in the one or more queries as a commercial query when a subset of the one or more terms of the one of the queries is included in the list of commercial query patterns, as recited in amended claim 9.

At paragraph 0328, TAIRA et al. discloses:

> The keyword extracting unit 14 extracts a retrieval keyword input by the browsing person in the off-site retrieval system from the reference information containing the URL pattern, based on a query pattern corresponding to the URL pattern in the retrieval system.

This section of TAIRA et al. discloses extracting a retrieval key word based on a query pattern corresponding to a URL pattern in a retrieval system. This section of TAIRA et

al. has nothing to do with means for identifying one of the queries in the one or more queries as a commercial query when a subset of the one or more terms of the one of the queries is included in a list of commercial query patterns. Nowhere in this section, or elsewhere, does TAIRA et al. disclose or suggest means for identifying whether each query of the one or more queries is a commercial query, where the means for identifying includes means for determining whether a subset of the one or more terms of each query in the one or more queries is included in a list of commercial query patterns, and means for identifying one of the queries in the one or more queries as a commercial query when a subset of the one or more terms of the one of the queries is included in the list of commercial query patterns, as recited in amended claim 9.

For at least the foregoing reasons, Applicants submit that claim 9 is patentable over PETROPOULOS and TAIRA et al., whether taken alone or in any reasonable combination.

Claim 10 recites features similar to, yet possibly of different scope than, features recited above with respect to claim 1. Therefore, claim 10 is patentable over PETROPOULOS and TAIRA et al., whether taken alone or in any reasonable combination, for reasons similar to the reasons given above with respect to claim 1.

Claim 11 recites features similar to, yet possibly of different scope than, features recited above with respect to claim 9. Therefore, claim 11 is patentable over PETROPOULOS and TAIRA et al., whether taken alone or in any reasonable combination, for reasons similar to the reasons given above with respect to claim 9.

In light of the above, Applicants request reconsideration and withdrawal of the rejection of claims 1 and 5-11 under 35 U.S.C. § 102(e) based on PETROPOULOS, and

of the rejection of claims 3 and 4 under 35 U.S.C. § 103(a) based on PETROPOULOS and TAIRA et al.

New claims 46 and 47 depend from claim 9, new claims 48 and 49 depend from claim 10, and new claims 50 and 51 depend from claim 11. Therefore, new claims 46-51 are patentable over the applied references for at least the reasons given above with respect to claims 9-11.

In view of the foregoing amendments and remarks, Applicants respectfully request entry of the present amendment and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

HARRITY SNYDER, L.L.P.

By: /Meagan S. Walling, Reg. No. 60,112/
     Meagan S. Walling
     Registration No. 60,112

Date: August 29, 2008

11350 Random Hills Road
Suite 600
Fairfax, Virginia 22030
(571) 432-0800

Customer Number: 44989